The union then sought to procure the discharge of the ex-members by threatening a strike, none of the workmen being under any contract of service. The ex-members brought a bill for an injunction against the union's action. *Held*, that the injunction will not be granted. *Kemp* v. *Division No. 241, Amalgamated Association of Street and Electric Ry. Employees of America*, 255 Ill. 213, 99 N. E. 389. See NOTES, p. 259.

WATERS AND WATERCOURSES — NATURAL WATERCOURSES: RIPARIAN RIGHTS — FLOOD WATERS. — The defendants proposed to divert for irrigation purposes on non-riparian lands the surplus water from a stream during seasons of unusual floods. The diversion would inflict no present damage on the plaintiffs who were lower riparian proprietors. *Held*, that the defendants cannot be enjoined. *Gallatin* v. *Corning Irrigation Co.*, 126 Pac. 864 (Cal.).

A riparian owner has no property in the water of natural watercourses but a right of user as it passes along. This right is subject to similar rights of all the riparian owners and must therefore be reasonable. *Embrey* v. *Owen*, 6 Exch. 353. If there is an unreasonable use of the water no damage to the lower owner need be shown. *Roberts* v. *Gwyrfai District Council*, [1899] 1 Ch. 583; *Blodgett* v. *Stone*, 60 N. H. 167. The principal case purports to follow a previous California decision holding that the lower riparian proprietor must show actual damage where even the natural flow of the river is diverted. *San Joaquin, etc. Irrigation Co.* v. *Fresno Flume & Irrigation Co.*, 158 Cal. 626, 112 Pac. 182. The court here in its language goes to the further extent of holding that the lower riparian owner has no right whatever in flood waters. It may be said that this result is supportable even at common law on the ground that flood waters are not properly to be considered part of the natural flow, and should be treated as surface waters. But flood waters have been held not to be surface waters. *O'Connell* v. *East Tennessee, V. & G. Ry. Co.*, 87 Ga. 246. It seems, therefore, that this is another example of the tendency of western courts to break away from strict common-law rules by limiting the rights of riparian owners, in order to meet local conditions. *Cf. Clough* v. *Wing*, 17 Pac. 453 (Ariz.). See 1 CAL. L. REV. 11.

WILLS — INCORPORATION BY REFERENCE — WHAT WORDS ARE SUFFICIENT. — The testatrix by her will gave certain property to the plaintiff "to dispose of in accordance with my instructions to her." After the death of the testatrix a letter was found in her handwriting addressed to the plaintiff and containing instructions for the disposition of the property. *Held*, that the letter could not be incorporated into the will. *Magnus* v. *Magnus*, 84 Atl. 705 (N. J.).

The rule adopted by the great weight of authority in both England and America is merely that a definite reference to an extrinsic document as in existence, and proof that the document was in existence when the will was executed, is sufficient to allow incorporation into the will. *Allen* v. *Maddock*, 11 Moore P. C. 427; *Baker's Appeal*, 107 Pa. 381. The principal case, however, lays it down as an absolute requirement that the reference must be to the document as existing. This, it is submitted, is an unnecessary restriction. If the reference is such as to render the document capable of identification, but the words used could refer equally to a future as well as to a past document, it would seem that parol evidence should be admissible to show that the testator actually did refer to an existing document. Such a rule would not be inconsistent with the general rule that a will, to be effective, must purport to be a final disposition at the time of its execution. But if the reference is too indefinite to render the document capable of identification, as it seems to be in the principal case, there should be no incorporation. The New York courts apparently have entirely repudiated the doctrine of incorporation. *Matter of Emmons'*

Will, 110 N. Y. App. Div. 701, 96 N. Y. Supp. 506. See 19 HARV. L. REV. 528. Connecticut, also, has questioned the doctrine. See *Phelps* v. *Robbins*, 40 Conn. 250, 272.

BOOK REVIEWS.

THE WORLD'S LEGAL PHILOSOPHIES. By Fritz Berolzheimer. Translated from the German by Rachel Szold Jastrow, with an Introduction by Sir John MacDonell and by Albert Kocurek. Boston: The Boston Book Company 1912. pp. liv, 490.

The method which the author has proposed for his survey of the varied doctrines comprised under the broad term "philosophy of law" is that of presenting "the successive cultural stages in terms of their distinctive ideas, principles, conceptions, and doctrines, and of their practical issues and demands." The titles of the main chapters suggest at once these stages. The first quarter of the book treats "Origins of Oriental Civilization," "The Ancient Commonwealth" (Greece), "The Civic Empire of Ancient Rome," "The Bondage of Mediævalism." The central portion portrays modern progress as a process of emancipation: first, "Civil Emancipation," with its central conception of natural law; second, "Emancipation of the Proletariat." The last third of the work is given to recent "Sociological Reconstruction of Legal Philosophy." "The history of legal philosophy is essentially the history of the great political movements of liberation, of the emancipation of humanity."

Surely here are great chapters in human life! At first one might find it incredible that, as Sir John MacDonell says in his introduction, "American and English lawyers rarely discuss" these subjects and that problems of this literature have for them "little interest." How can it be that lawyers, of all men, "do not inquire into the justification of coercion"? "do not examine into the relations of economics to law"? "do not deal with the proper province of the state"? It would seem scarcely to need saying that this "whole attitude has become untenable," and that "in times such as these of changes profoundly affecting all parts of law, it is essential to go back to principles, and he who would not be the mere *leguleius* must be the philosophic jurist" (pp. xxvii, xxviii). Or if we consider that the starting-point of the philosophy of law is the "conception of justice, or at least of what satisfies the sense of justice," again it would seem inexplicable that any lawyer could neglect such a study.

And yet great as are the themes considered, it is not unlikely that many a lawyer sincerely desirous of broadening his horizon will feel somewhat baffled as he reads this work. Difficulties will confront him, due in part to the condensation of the subject matter, and in part to the terminology. Any such survey as Dr. Berolzheimer makes must choose between saying something about every or nearly every author, and presenting only the outstanding figures and the great lines of development. Dr. Berolzheimer wisely decides for the second plan, but one may well query whether his work would not be even more valuable for most readers if he had followed it more rigorously. There are vistas, but there are also many stretches where one sees trees rather than the forest. Many doctrines seem meaningless except as one brings to them a larger knowledge of their implications than the brief space allotted them suffices for. And besides the condensation there are the technical terms. A caviler might say that a lawyer could not lawfully object to technicality. But our own technicalities may easily seem enough, and those of another subject a burden too great to be readily assumed. Most of the authors considered approached the philosophy of law from the angle of philosophy rather than from that of law.